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4 UNITED STATES DISTRICT COURT  
5 WESTERN DISTRICT OF WASHINGTON  
6 AT SEATTLE

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8 SHERMAN PRUITT, and MELODY  
9 PRUITT

10 Plaintiffs,

11 v.

12 THE CITY OF ARLINGTON, a  
13 municipal corporation, and  
14 JONATHAN WELLS, and JOHN DOE  
15 ARLINGTON POLICE OFFICERS 1-  
16 5,

17 Defendants.

Case No. C08-1107 MJP

ORDER DENYING PLAINTIFFS'  
MOTION TO DISMISS  
COUNTERCLAIM OF DEFENDANTS

18 This matter comes before the Court on Plaintiff's motion to dismiss the Defendants'  
19 counterclaim under RCW 4.24.350. Having considered Plaintiff's motion and supporting  
20 documents (Dkt. Nos. 15-16), Defendants' response (Dkt. No. 21), and Plaintiffs' reply (Dkt.  
21 No. 25), the Court DENIES Plaintiffs' motion.

22 Background

23 Plaintiffs bring this action alleging violations of 42 U.S.C. § 1983 and the Fourth and  
24 Fourteenth Amendments of the United States Constitution. (Dkt. No. 1 at 3-5.) In response,  
25 Defendants bring a counterclaim for malicious prosecution under RCW 4.24.350(2). (Dkt. No.  
12.)



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1 there is a “rational relationship between the stated reason for the statute and the statute’s  
2 content.” Bakay, 2005 WL 2454168, at \*6.

3 Second, Plaintiffs erroneously rely upon Chaker v. Crogan, 438 F.3d 1215, 1227-28  
4 (9th Cir. 2005)(holding that a California statute unconstitutionally restricted certain  
5 viewpoints by making it a misdemeanor to file false complaint reports with the police  
6 department). Chaker is distinguishable. While the California statute was penal in nature and  
7 thus actively proscribed certain conduct, RCW 4.24.350(2) is a civil statute that was intended  
8 to be purely remedial. See Laws of 1984, ch. 133, 1, 3. In Chaker, the California statute was  
9 invalidated because only false complaints against government officials were proscribed.  
10 Chaker, 428 F.3d at 1226. In contrast, the Washington statute proscribes no conduct at all.  
11 Washington common law provides anyone with a cause of action for malicious prosecution;  
12 the State Legislature merely limited the elements that must be proven by certain plaintiffs.  
13 The Washington statute limits no one’s access to the courts, nor does it dictate what type of  
14 lawsuit may be filed. Thus, Chaker does not control this Court’s analysis.

15 The Plaintiffs’ argument that RCW 4.24.350(2) is preempted by the Federal Civil  
16 Rights Attorney’s Fees Awards Act, 42 U.S.C. § 1988 is unavailing. Plaintiffs claim that  
17 RCW 4.24.350(2) conflicts with the federal statute because the state law requires a “lesser  
18 showing” to prove that an action is frivolous. (Dkt. No. 15 at 13.) This argument is directly  
19 contradicted by the requirements of the respective statutes. While § 1988 requires only that  
20 the plaintiff’s suit be objectively groundless in order for the defendant to obtain attorney’s  
21 fees, RCW 4.24.350(2) requires the defendant to prove additionally that the plaintiff  
22 subjectively knew that the claim was false. The two statutes do not conflict.


23 Finally, the Plaintiffs unsuccessfully contend that RCW 4.24.350 violates the  
24 Washington State Constitution, in particular Article I §§ 4, 5, and 12. Plaintiffs provide no  
25 support for their position and merely quote the articles. (Dkt. No. 15 at 14.) As to Article I, §  
12, the privileges and immunities provision (Dkt. No. 15 at 14), they rely upon Harmon v.



1 McNutt, 91 Wn.2d 126, 130-31 (1978), which stands for the twin propositions that Article I, §  
2 12 requires that persons similarly situated with respect to the purpose of the law receive like  
3 treatment and that the question of “like treatment” be determined by rational basis review. As  
4 discussed above, RCW 4.24.350(2) survives that deferential review. Unlike the situation in  
5 Harmon, the case before this Court does not involve similarly situated groups of individuals.  
6 There is insufficient authority to support a finding that RCW 4.24.350(2) violates the  
7 Washington State Constitution.

8 The Court DENIES Plaintiff’s motion to dismiss Defendants’ counterclaim. The  
9 Clerk is directed to send a copy of this order to all counsel of record and mail a copy to  
10 Plaintiff.

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12 DATED this 23<sup>rd</sup> day of February, 2009.

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15 Marsha J. Pechman  
16 United States District Judge  
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